

Message Text

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ACTION DLOS-09

INFO OCT-01 ISO-00 OIC-02 AF-10 ARA-14 EA-12 EUR-12
NEA-10 ACDA-12 AGRE-00 AID-05 CEA-01 CEQ-01 CG-00
CIAE-00 COME-00 DODE-00 DOTE-00 EB-08 EPA-04
SOE-02 DOE-15 FMC-02 TRSE-00 H-02 INR-10 INT-05
IO-14 JUSE-00 L-03 NSAE-00 NSC-05 NSF-02 OES-07
OMB-01 PA-02 PM-05 SP-02 SS-15 ICA-20 /213 W
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P 271016Z APR 78

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 8905

LOS COLLECTIVE

AMEMBASSY KATHMANDU

AMEMBASSY SUVA

UNCLAS SECTION 01 OF 02 GENEVA 06349

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: LOS CONFERENCE - US STATEMENT ON LOS REVIEW

REF: GENEVA 6276

1. THE FOLLOWING IS THE STATEMENT BY AMBASSADOR ALDRICH
CONCERNING ICNT ARTICLES 152 AND 153 ON PERIODIC REVIEW
AND THE REVIEW CONFERENCE.

QUOTE:

ARTICLE 152 OF THE ICNT PRESENTS NO SUBSTANTIVE PROBLEMS,
AND I WOULD SUGGEST ONLY A MINOR DRAFTING CHANGE IN THE
SECOND SENTENCE, NAMELY THAT THE PHRASE "RECOMMEND OTHER
ORGANS TO ADOPT" MIGHT BETTER READ "RECOMMEND THAT OTHER
ORGANS ADOPT."

ARTICLE 153, ON THE OTHER HAND, PRESENTS A NUMBER OF
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SERIOUS DIFFICULTIES, PROCEDURALLY, IT IS DIFFICULT TO
ADDRESS AS IT IS PROPERLY ONE OF THE FINAL ARTICLES,
AND THE OTHERS HAVE NOT YET BEEN DRAFTED. IT IS, IN
PARTICULAR, DIFFICULT TO SEPARATE THIS ARTICLE FROM THE
ESSENTIAL ARTICLE ON AMENDMENT. ALTHOUGH WE MAY NOT BE
ABLE TO RESOLVE THIS PROBLEM EXCEPT AS PART OF THE FINAL
ARTICLES, WE MAY, AT LEAST, BE ABLE TO REDUCE OUR DIFFER-

ENCES AND SIMPLIFY THE ISSUES.

AT THE OUTSET, LET ME STATE THAT MY DELEGATION HAS NO DIFFICULTY IN ACCEPTING A REVIEW CONFERENCE AT THE END OF TWENTY YEARS TO ASSESS OUR EXPERIENCE WITH THE OPERATION OF THE INTERNATIONAL SEABED REGIME CREATED BY THE CONVENTION AND TO CONSIDER WHAT COURSE OF ACTION WE MAY WISH TO TAKE AT THAT TIME IN VIEW OF THIS EXPERIENCE AND DEVELOPMENTS WHICH WE CANNOT NOW FORESEE. IN FACT, THE REVIEW CONFERENCE AROSE OUT OF A PROPOSAL BY FORMER SECRETARY KISSINGER. HOWEVER, I THINK IT SAFE TO SAY THAT HE DID NOT HAVE IN MIND THE TYPE OF ARTICLE WE FIND AS ARTICLE 153 OF THE ICNT.

SPECIFICALLY, OUR PROBLEMS WITH THE ARTICLE, TAKEN AS THEY APPEAR, ARE AS FOLLOWS:

FIRST, IN PARAGRAPH 1, WE WOULD LIKE TO SEE THE SECOND SENTENCE ENDED AFTER THE PHRASE "HAVE ACHIEVED THEIR AIMS." WE DO NOT BELIEVE THAT IT SERVES ANY USEFUL PURPOSE TO SINGLE OUT PARTICULAR PROVISIONS OF THE ICNT TO BE REVIEWED IN TWENTY YEARS, BUT RATHER IT WILL BE THE ENTIRE SYSTEM OF THE REGIME THAT WILL BE THE SUBJECT OF THE REVIEW. SELECTING ONLY A FEW PROVISIONS FOR SPECIAL MENTION IS BOUND TO CREATE CONTROVERSY AND OBJECTION BY THOSE WHO CONSIDER DIFFERENT PROVISIONS AND OBJECTIVES EQUALLY IMPORTANT AND UNCLASSIFIED

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WORTHY OF MENTION, AND IT WILL KEEP US IN NEGOTIATION INDEFINITELY.

SECOND, THE SAME IS TRUE OF PARAGRAPH 2, WHICH WE THINK SHOULD BE DELETED. IF IT IS RETAINED, IT WOULD HAVE TO BE CLARIFIED AND BALANCED BY A REFERENCE TO THE SUCCESS OF THE ACCESS SYSTEM IN MEETING THE NEEDS OF CONSUMERS FOR MINERALS PRODUCED FROM THE RESOURCES OF THE AREA.

THIRD - A SIMILAR PROBLEM OCCURS IN PARAGRAPH 3, WHICH ATTEMPTS TO DICTATE TO THE FUTURE REVIEW CONFERENCE WHAT PROVISIONS AND MECHANISMS SHOULD GOVERN A SITUATION WHICH WE CANNOT NOW PREDICT. THESE PROVISIONS COULD NOT IN ANY EVENT PREVENT THAT CONFERENCE FROM AMENDING ANYTHING IT MAY WISH TO AMEND, AND IT IS MERELY SELF-DECEPTION TO PRETEND OTHERWISE.

FOURTH - IN PARAGRAPH 4, IT SHOULD BE MADE CLEAR THAT THE ENTRY INTO FORCE PROCEDURES WILL BE THOSE REQUIRED BY THE FINAL ARTICLE DEALING WITH AMENDMENTS TO THE CONVENTION.

FIFTH - IN PARAGRAPH 5, MY DELEGATION BELIEVES THAT EITHER

EVERYTHING AFTER THE FIRST SENTENCE MUST BE DELETED OR THE SECOND SENTENCE SHOULD BE REVISED TO MAKE CLEAR THAT CONTRACTS CONCLUDED PRIOR TO THE REVIEW CONFERENCE SHALL CONTINUE IN FORCE FOR THEIR NORMAL FULL TERM. THE PRESENT TEXT IS NOT USEFUL AS TWENTY OR TWENTY-FIVE YEARS WOULD BE THE MINIMUM PERIOD NECESSARY TO PROVIDE FOR A REASONABLE RETURN ON CAPITAL.

SIXTH - FINALLY, AND MOST IMPORTANTLY, MY DELEGATION CANNOT ACCEPT THE PROVISIONS OF PARAGRAPH 6 WHICH WOULD CONVERT THE DUAL SYSTEM OF ACCESS INTO A UNITARY SYSTEM OF JOINT VENTURES IN THE ABSENCE OF AGREEMENT AT THE REVIEW CONFERENCE. IT SHOULD BE CLEAR THAT SOMETHING WE CANNOT ACCEPT NOW CANNOT BE ACCEPTED FOR IMPOSITION AGAINST OUR WISHES IN UNCLASSIFIED

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THE FUTURE. IT IS POSSIBLE TO CONCLUDE AN AGREEMENT VALID ONLY FOR A FIXED PERIOD OF TIME OR AN AGREEMENT THAT PERMITS STATES THAT ARE NOT SATISFIED TO WITHDRAW AFTER A FIXED PERIOD OF TIME, BUT IT IS SIMPLY IMPOSSIBLE TO CON-

CLUDE AN AGREEMENT THAT WILL, IN THE ABSENCE OF AGREEMENT,
IMPOSE AN UNACCEPTABLE SOLUTION AFTER A FIXED PERIOD OF
TIME. IT WILL BE IN THE NEXT CENTURY THAT THE MINERALS
FROM THE SEABED WILL BECOME OF VITAL IMPORTANCE. THAT WOULD
BE THE MOST DIFFICULT TIME TO ACCEPT A PROHIBITION ON
ACCESS TO THEM.

THE PARALLEL SYSTEM OF EXPLOITATION IS NOT OUR PREFERRED
SYSTEM. WE SEE IT AS A COMPROMISE WITH THOSE WHO CANNOT
ACCEPT A LICENSING SYSTEM. WE DO NOT INSIST THIS COMPRO-
MISE LAST FOREVER, BUT WE MUST INSIST THAT, ONCE ESTAB-
LISHED, IT NOT BE REPLACED WITH SOMETHING ELSE EXCEPT
THROUGH THE PROCESS OF AMENDMENT OR TERMINATION OF THE
TREATY. IF THE REVIEW CONFERENCE IS UNSUCCESSFUL IN
REACHING AGREEMENT ON A SYSTEM OF EXPLOITATION FOR THE NEXT
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CENTURY, NONE OF THE PARTIES TO THE TREATY SHOULD BE IN A
WORSE POSITION THAN IF THE TREATY HAD SIMPLY EXPIRED.
END QUOTE. RICHARDSON

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